HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 17592 of 1998

Dated: 22-06-2007

Between:

P.S.V.Sanjeeva Rao

..... PETIT

AND

The State Bank of India,
Rep., by its Chief General Manager,
Local Head Office,
Bank Street,
Koti, Hyderabad.

.....RESPOI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 17592 of 1998

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the action of the respondent in modifying the policy of promotion vide its Circular letter No.LHO/CDO/PER/5/98-99 dated
02-05-1998 as illegal, arbitrary and contrary to the State Bank of India Officers Service Rules and fifth bipartite settlement and to set aside the same and for a consequential direction to respondent to conduct examinations to Junior Management Grade, Scale-I post in 2:1 ratio.

The petitioner is clerk/Cashier in the respondent organization. He pleaded in the writ petition that under Rule 14 of the State Bank of India Officers Service Rules all appointments and promotions to the Officers Grade should be made by the competent authority in accordance with the policy or guidelines, if any, laid down in this behalf by the Central Board or the Executive Committee. The Central Board has, therefore, constituted a Committee in the year prior to filing of the writ petition to look into the entire gamut of career path for permitting more number of employees to appear for the promotion test from clerical to Officers cadre so as to enlarge the basket of available candidates. It is specifically averred that the said Committee has so far not submitted its report. It is also further averred that by the impugned circular, the respondent has modified the policy by permitting the number of candidates in the ratio of 1:5 and thereby the respondent had increased the competition among the candidates. According to the petitioner this increase is contrary to the fifth bipartite settlement, which provided for considering the candidates for written test and interview in the approximate ratio of 1:2.

The respondent filed a counter affidavit in which it is averred that under Rule 3 (2) and 3 (3) which are framed by the respondent in exercise of its powers conferred under Section 43 (1) of the State Bank of India Act, 1955 (for short 'the Act), the Central Board reserves right of changing the Rules laid down from time to time with the proviso, subject to the condition that every new Rule or alteration in an existing Rule shall take effect unless, otherwise

directed by the Central Board, from the date on which the new Rule or alteration is passed by it in a resolution and that any new Rule or alteration passed by the Central Board shall be issued in the form of a circular. The respondent also relied upon Rule 17 Sub-Rules (1) to (3) of the Act, which envisage that the promotions to all the grades of Officers shall be made in accordance with the policy laid down by the Central Board or the Executive Committee from time to time. It is further stated that the Central Office of the respondent-Bank vide its circular dated 16-09-1992 issued instructions for the purpose of promoting the clerical cadre employees to Junior Management Grade Scale-I and this circular was followed by the Bank till 1997. The respondent, realizing that there is huge stagnation in the promotional avenues among the employees, changed its policy. This was preceded by various requests made by the local Head Offices to Central Office to permit them to call more employees to appear for the test to enlarge the basket of available candidates. In pursuance thereof, in the year 1997, a Committee has been constituted to look into the entire gamut of career path for workmen staff and as the committee report was awaited, All India State Bank of India Staff Federation had made a request to the Bank to work out the interim arrangement for 1997-98 by providing promotional exercise to all the employees with a minimum service of 15 years and permitting them to appear for the test for promotion to Junior Management Grade under the normal (Seniority-cum-Merit) Channel. After considering the said request, the Central Office of State Bank of India decided with the approval of Executive Committee of the Central Board in its meeting held on 19-02-1988 to modify the existing policy as a one time measure for 1997-98 only and this decision was communicated to the respondent vide circular No. CDO:IR:CIR::50 date 19-02-1998 which provided that the promotions from Clerical Grade to Junior Management Grade will be made for 1997-98 in the following manner.

i) The present policy of limiting the number of candidates to 5 for 1 vacancy, along with the provision for calling the repeaters until they exhaust all their chances/become overaged will be continued for the current year.

ii) In the event of the present policy not resulting in lowering the service range for being eligible for promotion to 15 years in any Circle, such Circle will allow all the clerical cadre employees, putting in 15 years of total service as on the 1st August, 1997 and otherwise eligible for promotion to appear for the test.

iii) In Circles, where the service range for being eligible for promotion is

less than 15 years, there shall be no change in the policy.

iv) In order to ensure that the ratio of the number of candidates to vacancies is not less than 5 to 1 against reserved vacancies, service requirement will be lowered for SC/ST candidates to the required extent wherever necessary.

v) Such of those employees who become eligible for promotion in terms of Clause (ii) above (having put in 15 years of service as on 01-08-1997) for the current year, shall not automatically be entitled to appear for the next year's test, unless they become so eligible under the proposed new promotion policy.

The aforementioned circular was communicated by the respondent to various Branch Managers, Hyderabad vide circular letter No.LHO/CDO/PER/5/98-99 dated 02-05-1998. It is further stated that the circular issued is in accordance with the policy laid down and applying the said circular, 2950 clerical cadre employees were given a chance to appear for the written examination and out of them only 2389 appeared for the examination. From out of the said number of candidates, 352 persons were called for the interview in the ratio of 2:3 and out of the said 352, a total number of 230 candidates were selected for promotion to Junior Management Grade.

In paragraph 15 of the counter, it is specifically stated that the impugned circular was issued by the respondent only after the Executive Committee of the Central Board in its meeting held on 19-02-1998 granted approval for the change in the policy.

Heard Sri M.Kesava Rao appearing for the petitioner and Smt. Uma Devi, learned counsel for the respondent.

Sri M.Kesava Rao, at the outset, submitted that as regards the plea taken by the petitioner that the circular was not approved by the Executive Committee, in view of the counter affidavit in which a specific assertion was made that such an approval was granted by the Executive Committee, he is not pressing the said point. However, the learned counsel pointed that the change of policy brought out in the impugned circular has increased the competition among the employees and reduced the chance of petitioner being promoted to the Junior Management Group-1.

Learned counsel for the respondent, however, on the other hand submitted that as stated in the counter affidavit, in order to give better avenues for its employees, the respondent has made an adhoc arrangement, pending receipt of a report by the Committee constituted in this behalf and on the

request of All India State Bank of India Staff Federation, the respondent has taken a decision to permit all its employees who have completed minimum service of 15 years to appear in the written examination and interview, so that the respondent will have a wider choice to select to the posts from out of the available candidates and it does not in any manner affect the interest of the petitioner.

Before referring to the rival submissions, it is required to be pointed out that in the affidavit filed in support of the writ petition, the petitioner pleaded that under the circular, the respondent has increased the ratio from 2:1 to 5:1. However, the impugned circular shows that they have changed the existing policy of limiting the number of candidates to 5 against each vacancy to consideration of the employees who have put a minimum service of 15 years on the First August, 1997.

The learned counsel for the petitioner fairly admits that this is a mistake committed in the petition. Be that as it may, I do not see any merit in the contention of the learned counsel for the petitioner that by merely increasing the number of candidates for consideration of promotion, the petitioner's chances of selection gets affected. Undisputedly, the Junior Management Grade

Scale-I is a selection post where merit cum seniority is the criterion. It is only those persons, who are found to be meritorious among the available candidates, who will be selected. If the petitioner has a superior merit, he need not have to bother about the competition he faces. Further, I am of the view that the employer is vested with the discretion to change its policies from time to time to suit its working condition. Unless it is shown that the policy evolved by the employer is wholly arbitrary or *mala fide,* the Court should not interfere with such policy decisions. Except contending that the petitioner's chances of getting promotion are affected by making the Selection broad based, the petitioner has failed to show that the policy suffers from the vice of arbitrariness or *mala fides*.

For the aforementioned reasons, I do not see any merit in the writ petition and accordingly, the same is dismissed. No costs.

(C.V.NAGARJUNA REDDY,J)

Date: 22-06-2007
KLP